

HOUSE No. 4756

The Commonwealth of Massachusetts

By Mr. Murphy of Burlington, for the committee on Ways and Means, that the Senate Bill authorizing the department of fish and game to acquire land of the town of Athol and to acquire a conservation restriction on lands of the town of Athol in exchange for grants of easements to the town of Athol (Senate, No. 2451) ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of House document numbered 4756. June 14, 2010.

FOR THE COMMITTEE:

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| NAME: | DISTRICT/ADDRESS: |
| Charles Murphy | 21st Middlesex |

The Commonwealth of Massachusetts

In the Year Two Thousand and Ten

The Committee on Ways and Means recommends that the bill be amended by striking out all after the enacting clause and inserting in place thereof the following:

1 SECTION 1. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the
2 General Laws or any general or special law to the contrary, the commissioner of capital asset
3 management and maintenance, in consultation with the commissioner of the department of fish
4 and game, may take under chapter 79 of the General Laws or otherwise acquire and the town of
5 Athol may convey all or portions of certain parcels of land identified in section 2 for the
6 preservation and protection of wildlife habitat, passive recreation and consistent purposes. The
7 parcels, if taken and not otherwise acquired, shall be subject to any easement or lesser interest in
8 land held by any person or governmental agency, except for said town, that lawfully exists and is
9 recorded in the appropriate registry of deeds, unless the commissioner capital asset management
10 and maintenance expressly takes the easement or lesser interest through eminent domain under
11 said chapter 79.

12 SECTION 2. The parcels of land, including lands under water, to be acquired from the
13 town of Athol are identified as follows: land in the towns of Athol and Phillipston, including
14 lands under water, located along South Royalston road, Cobb Hill road, Willis road, Schoolhouse
15 road and state highway route 2A associated with Thousand Acre Reservoir, Thousand Acre
16 Brook and its watershed, described in deeds to the town of Athol recorded at the South
17 Worcester district registry of deeds in book 1981, page 401; book 2077, page 117; book 2338,
18 page 177; book 2283, page 136; book 2123, page 368; book 3530, page 442; book 1947, page
19 283; book 2145, page 479; and book 1836, page 133 (parcels 13 and 14). The commissioner of
20 capital asset management and maintenance, in consultation with the commissioner of the
21 department of fish and game, shall determine the exact boundaries of the parcels of land after
22 completion of a survey.

23 SECTION 3. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General
24 Laws or any general or special law to the contrary, the commissioner of capital asset
25 management and maintenance, in consultation with the commissioner of the department of fish
26 and game, may convey to the town of Athol easements or lesser interests for the purpose of
27 installing and maintaining water mains across all or portions of a certain parcel of land of the
28 commonwealth identified in section 4. The commissioner of capital asset management and
29 maintenance, in consultation with the commissioner of the department of fish and game, shall
30 determine the exact boundaries of the water main easements after completion of a survey.

31 SECTION 4. The parcel of land to be subject to the water main easements under section
32 3 is identified as follows: land in Athol described in a deed to the commonwealth recorded at the
33 south Worcester district registry of deeds at book 14525, page 380 and shown on plan entitled
34 “Plan of Land in Athol owned by Lois E. Lawrence” recorded at said south Worcester district
35 registry of deeds in plan book 407, plan 8.

36 SECTION 5. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General
37 Laws or any general or special law to the contrary, the commissioner of capital asset
38 management and maintenance, in consultation with the commissioner of the department of fish
39 and game, may convey to the town of Athol easements or lesser interests for drinking water
40 supply wellhead protection over all or portions of a certain parcel of land of the commonwealth
41 identified in section 6. The commissioner of capital asset management and maintenance, in
42 consultation with the commissioner of the department of fish and game, shall determine the exact
43 boundaries of the drinking water supply wellhead protection easement or parcel of land after
44 completion of a survey.

45 SECTION 6. The parcel of land to be subject to the wellhead protection easements under
46 section 5 is identified as follows: land in Athol, described in a deed to the commonwealth
47 recorded at the south Worcester district registry of deeds in book 16041, page 160 and shown on
48 a plan entitled “Plan of Land in Athol, Massachusetts prepared for Mount Grace Land
49 Conservation Trust, Inc.” recorded at said south Worcester district registry of deeds in plan book
50 670, plan 86.

51 SECTION 7. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General
52 Laws or any general or special law to the contrary, the commissioner of capital asset
53 management and maintenance, in consultation with the commissioner of the department of fish
54 and game, may convey to the town of Athol easements or lesser interests for the purpose of
55 constructing, maintaining and using a bicycle path across all or portions of a certain parcel of
56 land of the commonwealth identified in section 8. The commissioner of capital asset
57 management and maintenance, in consultation with the commissioner of the department of fish
58 and game, shall determine the exact boundaries of the bike path easement after completion of a
59 survey.

60 SECTION 8. The parcel of land to be subject to the bicycle path easements under section
61 7 is identified as follows: land in Athol described in deed to the commonwealth recorded at the
62 south Worcester district registry of deeds at book 16041, page 160 (parcel III).

63 SECTION 9. In consideration for the conveyance described in sections 3 to 8, inclusive,
64 notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws or any general
65 or special law to the contrary, the commissioner of capital asset management and maintenance,
66 in consultation with the commissioner of the department of fish and game, may take under
67 chapter 79 of the General Laws or otherwise acquire and the town of Athol may convey
68 easements or lesser interests through a conservation restriction under sections 31, 32 and 33 of
69 chapter 184 of the General Laws for the preservation and protection of wildlife habitat and
70 passive recreation and consistent purposes, in all or portions of certain parcels of land identified
71 in section 10. The parcels were acquired by the town of Athol for water supply purposes. The
72 conservation restriction authorized by this act shall allow for the town to retain the right to use
73 the premises as a potential water supply for the town. The conservation restriction, if taken and
74 not otherwise acquired, shall be subject to any easement or lesser interest in land held by any
75 person or governmental agency, except for said town, that lawfully exists and is recorded in the
76 appropriate registry of deeds, unless the commissioner capital asset management and
77 maintenance expressly takes the easement or lesser interest through eminent domain under said
78 chapter 79.

79 SECTION 10. The parcels of land, including lands under water, to be subject to the
80 conservation restriction are identified as follows: land in Athol, including lands under water,
81 located along South Royalston road and Bearsden road, associated with Newton Reservoir and
82 its watershed, described in deeds to the town of Athol recorded at the south Worcester district
83 registry of deeds in book 3543, page 194; book 1995, page 600; and book 1836, page 133
84 (parcels 24, 25, 26, 27, 28, 29 and 30).

85 SECTION 11. The consideration for the 3 easements described in sections 3 to 8,
86 inclusive, and the easement or conservation restriction described in sections 9 and 10, shall be
87 the full and fair market value of the easements or conservation restriction for the uses authorized
88 by this act, as determined by the commissioner of the division of capital asset management and
89 maintenance based upon 1 or more independent professional appraisals. The authorization
90 granted in said sections 3 to 10, inclusive, shall be contingent on the appraised value of the
91 conservation restriction described in sections 9 and 10 being equal to or greater than the
92 appraised value of the 3 easements described in sections 3 to 8, inclusive, as determined by 1 or
93 more independent professional appraisals; provided further, that the commissioner of capital
94 asset management and maintenance may accept the findings of a previous appraisals of the
95 easements or conservation restriction conducted by an appraiser acceptable to the commissioner
96 division of capital asset management and maintenance.

97 SECTION 12. Notwithstanding any general or special law to the contrary, the inspector
98 general shall review and approve the appraisals required pursuant to section 11. The inspector
99 general shall prepare a report of his review of the methodology utilized for the appraisal and
100 shall file the report with the commissioner of capital asset management and
101 maintenance. Within 15 days of receiving the inspector general's report but not later than 15
102 days before the execution of any agreement or other document relating to the lease, the
103 commissioner shall submit the report to the house and senate committees on ways and means and
104 the joint committee on state administration and regulatory oversight.

105 SECTION 13. Costs and expenses associated with the transactions authorized in this act
106 shall be apportioned as agreed by the town of Athol and the department of fish and game.